IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 65 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SHREE BUNADHA VIBHAG JUNGLE KAMDAR SAHKARI MANDLI LTD

Versus

DEPUTY CONSERVATOR OF FOREST

Appearance:

1. Special Civil Application No. 65 of 2000

MR MITUL K SHELAT for Petitioner No. 1-2

MR PR ABICHANDANI, AGP for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 01/08/2001

ORAL JUDGEMENT

Rule. Mr PR Abichandani, learned AGP waives service of Rule for the respondent.

2. In this petition under Article 226 of the Constitution, petitioner No. 1, a co-operative society of the workers in the Bunadha Vibhag Forest (hereinafter

referred to as `the petitioner' or `the petitioner-society') and one of its members have challenged the communication dated 19.11.1999 (Annexure "F") from the Deputy Conservator of Forests, Rajpipla (West) to the petitioner-society informing that the petitioner-society was not allotted the coups for cutting trees because looking to the number of trees in the concerned coups within the area of the petitioner-society, it would be economically unviable to the petitioner-society.

3. The petitioner-society was registered as a co-operative society in the year 1957. The members of the petitioner-society are forest workers. There are six such co-operative societies of forest workers in Rajpipla (West) Taluka. The petitioner-society has 344 members. The petitioner-society was formed with the object of getting coups and to provide employment to the residents of the area through the work of getting coups and cutting trees.

By Government Resolution dated 25.2.1980, the State Government determined the criteria for the allotment of coups. The applications are to be considered on the basis of the recommendations of the District Committee consisting of the Conservator of Forests, District Registrar of Co-operative Societies and the Chairman, District Co-operative Societies Association. Every year the Government declares the coups available in the forest area and thereafter demands are invited from various co-operative societies engaged in this activity. The co-operative societies are required to register their demand with the District Committee which scrutinizes the applications as per the guidelines and makes recommendations.

4. The petitioner was allotted coups regularly by the respondent authority for as may as 43 years. The petitioner-society continued to get such allotment of coups upto 1998-99. In the year 1998-99, on account of onslaught of the monsoon, the petitioner-society could not cut the trees in the coups allotted to the petitioner-society and hence a request was made to extend the period for cutting trees. For the year 1999-2000, by notification dated 28.9.1999 again the demands were invited for registering the demands of the societies. Pursuant to such notification dated 28.9.1999, the petitioner-society registered their demand through the Forest Workers Co-operative Societies Association. It is the case of the petitioner that out of the three members of the Committee, two members i.e. the District

Registrar of Co-operative Societies as also the President of Surat District Forest Co-operative Societies at Paniyari had also recommended the petitioner's demand. However, the Deputy Conservator of Forest has rejected the said demand by his impugned communication dated 19.11.1999 on the ground that looking to the number of trees in the concerned coups within the area, the activity would be economically unviable for the petitioner-society.

5. The aforesaid communication is challenged on the ground that when the petitioner-society is prepared to undertake the activity of cutting trees in the coups to be allotted to them, it is not for the Conservator/Deputy Conservator of Forests to refuse to grant the demand on the ground that it would be economically unviable to the petitioner-society.

6. Having heard the learned counsel for the parties, and even after going through the affidavit in reply filed by the Assistant Conservator of Forests, Rajpipla (West), it appears to the Court that when the trees in the concerned coups were required to be cut and the same was decided to be done by the department on its own, there is no reason why the petitioner-society's demand should have been rejected. It is not for the respondent to decide whether the work would be economically unviable or not for the petitioner-society. It is for the petitioner-society to take a decision. When there was no impediment to allot the coups to the petitioner-society, the Deputy Conservator of Forests was not justified in rejecting the demand only on the ground that it would be economically unviable for the petitioner-society.

Under the circumstances, the Court has no hesitation in quashing and setting aside the impugned communication dated 19.11.1999 (Annexure "F") from the Deputy Conservator of Forests to the petitioner.

7. Mr PR Abichandani, learned counsel for the respondent, however, points out that since the year 1999-2000 is already over and the subsequent year 2000-2001 is also about to be over, reliefs if any, may be granted in respect of the future period and not in respect of the past period.

8. In view of the above discussion, the petition is allowed. The impugned communication dated 19.11.1999 (Annexure "F") is quashed and set aside. The respondent is directed to consider the petitioner's demand in accordance with law and in accordance with the relevant

and applicable guidelines without being influenced by the question whether it would be economically viable or unviable for the petitioner society to get allotment of the coups demanded by the petitioner-society.

9. Rule is made absolute to the aforesaid extent with no order as to costs.

(M.S. Shah, J.)

sundar/-